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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79720; File No. SR-NYSEMKT-2016-102]

Self-Regulatory Organizations; NYSE MKT LLC; Order Approving Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Introducing NYSE OptX
January 3, 2017

I. Introduction

On November 3, 2016, NYSE MKT LLC, on behalf of NYSE Amex Options (the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to introduce NYSE OptX, an order entry platform that will allow for the submission of Qualified Contingent Cross (“QCC”) Orders and orders executed in the Exchange’s Customer Best Execution (“CUBE”) Auction by ATP Holders. On November 15, 2016, the Exchange filed Amendment No. 1 to the proposal.³ The proposed rule change, as modified by Amendment No. 1, was published for comment in the Federal Register on November 22, 2016.⁴ The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposed Rule Change

The Exchange proposes to introduce NYSE OptX, an order entry platform that will allow ATP Holders to submit QCC Orders and CUBE Orders (collectively, “paired orders”) to the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, the Exchange clarified that QCC Orders sent through NYSE OptX to the Exchange for execution will comply with the order format and EOC entry requirements established by the Exchange, which are set forth in Exchange Rule 955NY.

⁴ See Securities Exchange Act Release No. 79328 (November 16, 2016), 81 FR 83888 (“Notice”).

Exchange.⁵ According to the Exchange, ATP Holders currently send paired orders to the Exchange through the use of third-party front end order management systems or by calling Floor Brokers and relaying their orders by telephone.⁶

According to the Exchange, NYSE OptX is an order entry platform that will utilize a combination of Instant Messaging (“IM”) and browser-based technology to allow ATP Holders to submit paired orders for execution on the Exchange’s trading system.⁷ To execute a paired order through NYSE OptX, an ATP Holder will send the order in plain text to NYSE OptX,⁸ which will then translate the message into a pre-populated order ticket with details of the order and return the order ticket to the ATP Holder in a browser-based URL. The ATP Holder will then confirm the order ticket and submit the order to the Exchange for execution, or send the order to a Floor Broker for execution. After an order is executed on the Exchange, NYSE OptX will remit details of the execution back to the ATP Holder.

According to the Exchange, NYSE OptX is designed as an alternative to front end order

⁵ The term “ATP Holder” refers to a natural person, sole proprietorship, partnership, corporation, limited liability company, or other organization, in good standing, that has been issued an ATP. An ATP Holder must be a registered broker or dealer pursuant to Section 15 of the Act. See Exchange Rule 900.2NY.(5).

⁶ See Notice, supra note 4, at 83889.

⁷ See id. The Exchange represents that NYSE OptX will not require any changes to the Exchange’s communication or surveillance rules. Id. at 83889, n.8.

⁸ The Exchange states that ATP Holders will be required to provide all the essential information regarding the paired order when sending the order to NYSE OptX, including the price of the option and the stock, the size and side of the order, and delta. The Exchange further represents that QCC Orders sent to the Exchange for execution will comply with the order format and EOC entry requirements established by the Exchange. See Notice, supra note 4, at 83889, n.10. See also Exchange Rule 955NY – Order Format and System Entry Requirements.

management systems and the use of telephones for the sending of paired orders to the Exchange.⁹ The Exchange notes that NYSE OptX will not provide ATP Holders with the capability to send any other type of orders or the capability to send paired orders for execution to other options markets.¹⁰ Further, ATP Holders will continue to be able to submit paired orders through the use of a third-party front end order management system, or by telephone, as they currently do.¹¹ The Exchange notes that use of OptX to send paired orders is optional and voluntary.¹²

The Exchange stated that it will announce the effective date of NYSE OptX in a Trader Update to be published no later than 90 days following approval of this proposal, and that such effective date will be no later than 270 days following publication of the Trader Update.¹³

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act¹⁴ and the rules and regulations thereunder applicable to a national securities exchange.¹⁵ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹⁶ which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster

⁹ See Notice, supra note 4, at 83889.

¹⁰ See id.

¹¹ See id.

¹² See id.

¹³ See id.

¹⁴ 15 U.S.C. 78f.

¹⁵ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁶ 15 U.S.C. 78f(b)(5).

cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and that the rules not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Commission notes that, according to the Exchange, NYSE OptX will provide ATP Holders an alternative to third-party front end order management systems and the use of telephones to send paired orders to the Exchange.¹⁷ Such an alternative may help protect the interests of investors by offering ATP Holders an additional way to send paired orders to the Exchange for execution. The Commission notes that the use of OptX will be entirely voluntary and ATP Holders will still be able to submit paired orders as they do today, either through the use of third-party front end order management systems or by telephone. For these reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁸ that the proposed rule change (SR-NYSEMKT-2016-102), as modified by Amendment No. 1, be, and hereby is, approved.

¹⁷ See Notice, supra note 4, at 83889. As stated above, the Exchange represented that ATP Holders will be required to provide all the essential information regarding the paired order when sending the order to NYSE OptX and QCC Orders sent to the Exchange for execution will comply with the order format and EOC entry requirements established by the Exchange. Id. at 83889, n.10.

¹⁸ 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

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Assistant Secretary

¹⁹ 17 CFR 200.30-3(a)(12).

